

CHARTER OF THE CITY OF KENAI, ALASKA

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### PREAMBLE

We, the people of the City of Kenai, exercising the powers of home rule granted to us by the Constitution and laws of the State of Alaska, in order to provide for more efficient, adequate, and economical government, do hereby ordain, ratify, and establish this Charter of the City of Kenai, Alaska.

### ARTICLE 1

#### INCORPORATION, FORM OF GOVERNMENT, POWERS, INTERPRETATION

##### Incorporation

Section 1-1. The City of Kenai, Alaska, shall continue to be a municipal body politic and corporate in perpetuity under the name of "City of Kenai". It shall succeed to and possess all the property, rights, privileges, franchises, powers, and immunities now belonging to the corporation known as the City of Kenai; and shall be liable for all debts and other obligations for which the corporation is legally bound at the time this charter goes into effect.

##### Boundaries

Section 1-2. The boundaries of the city as they exist at the time this charter goes into effect, shall remain the boundaries of the city until they are changed in a manner consistent with the state constitution and law.

##### Form of government -- Changes in -- City administrator

Section 1-3. (1) The form of municipal government provided by this charter shall be either the "mayor-council" or the "council-manager" form of government as the council, by nonemergency ordinance, may provide. Unless the council provides otherwise by nonemergency ordinance, the form of government of the city shall be the mayor-council form.

(2) When the city is operating under the mayor-council form of government, the term "city administrator", wherever used in this charter, shall mean the mayor, and the mayor shall have the powers, duties, and functions of the city administrator; provided that, when the city is operating under the mayor-council form of government, the city clerk shall have such powers, duties, and functions of the city administrator as the council by ordinance may vest in him. When the city is operating under the council-manager form of government, the term "city administrator", wherever used in this charter, shall mean the city manager, and the city manager shall have the powers, duties, and functions of the city administrator.

##### Powers of the city

Section 1-4. The City of Kenai shall have all the powers, functions, rights, privileges, franchises, and immunities of every name and nature whatever, which a home-rule city may have under the Constitution and laws of the State of Alaska. The city may exercise all legislative powers not prohibited by law or by this charter.

The enumeration or mention of particular powers by this charter shall

not be deemed to be exclusive or limiting; and in addition to the powers enumerated or mentioned herein or implied hereby, the city shall have all powers which, under the state constitution and law, it would be competent for this charter specifically to enumerate or mention.

#### Exercise of powers

Section 1-5. All powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

#### Applicability of state law

Section 1-6. Provisions of state law relating to matters which may be regulated by home-rule cities, shall be in effect in this city only insofar as they are applicable and are not superseded by this charter or by ordinance.

#### Interpretation -- Definitions

Section 1-7. (1) When used in this charter, the singular number includes the plural, and the plural the singular, and the masculine gender includes the feminine and neuter, unless the context clearly indicates otherwise.

(2) When the word "city" is used in this charter, it shall mean the City of Kenai unless the context clearly indicates another meaning.

(3) When the word "person" is used in this charter, it shall mean an unincorporated association, partnership, or corporation as well as an individual unless the context clearly indicates otherwise.

(4) When the word "publish", "published", or "publication" is used in this charter, it shall mean publish, published, or publication in a newspaper of general circulation within the city at least one time or by posting a copy of the ordinance, notice, or other document on the official city bulletin board which shall be located in or on the principal municipal building; provided that the council by ordinance may require that any or all such publications shall be in a newspaper of general circulation within the city.

## ARTICLE 2. THE COUNCIL

#### Councilmen: Number, qualifications

Section 2-1. There shall be a council of seven members, which shall consist of the mayor and six other councilmen. Unless otherwise clearly indicated by the context, the words "councilman" and "councilmen" shall include the mayor as well as other councilmen.

Only qualified voters of the city who, at the time of their election or choice to fill a vacancy, are at least twenty-one years old, and have resided within the city for three years, one year of which must have been immediately prior thereto, shall be qualified for the offices of mayor and other councilmen. If a councilman ceases to be a resident of this city, he shall thereupon cease to hold office.

#### Mayor and vice mayor

Section 2-2. The mayor shall preside at meetings of the council. He shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law. As a councilman, he shall have all powers, rights, privileges, duties, and responsibilities of other councilmen, including the right to vote on questions. If a vacancy

occur in the office of mayor, the council shall elect a qualified person, who may or may not already be a councilman at the time, to be mayor for completion of the unexpired term or until the vacancy is filled by election.

At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen or as soon thereafter as practicable, the council shall elect one of its members vice mayor, who shall serve as such until the next such first meeting. The vice mayor shall act as mayor during the absence or disability of the mayor, or, if a vacancy occur in the office of mayor, until another mayor is elected and qualifies. If the office of vice mayor becomes vacant, the council shall elect from its members another vice mayor for completion of the unexpired term.

#### Mayor and councilmen: Compensation

Section 2-3. The compensation, if any, of the mayor and other councilmen shall be determined by a nonemergency ordinance; but no increase in such compensation shall become effective until after a regular city election has been held. The mayor and other councilmen may be reimbursed for expenses incurred in the discharge of their official duties. This section shall not affect the compensation which a member of the council may receive as a member of the borough assembly.

#### Council: Powers

Section 2-4. Except as otherwise provided in this charter, all powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power:

(1) To appoint and remove the city manager as provided in this charter when the city is operating under the council-manager form of government;

(2) By ordinance to enact legislation relating to any or all subjects and matters not prohibited by law or this charter;

(3) To adopt the budget, raise revenue, and make appropriations; and regulate salaries and wages and all other fiscal affairs of the city;

(4) To inquire into the conduct of any office, department, or agency of the city government, and investigate municipal affairs;

(5) To appoint or elect and remove the city attorney and any other personnel in the department of law, election personnel, the members of the personnel board, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial, or advisory officers and authorities, now or when and if established, or prescribe the method of appointing or electing and removing them;

(6) To create, change, and abolish all offices, departments, and agencies of the city government other than the offices, departments, and agencies created by this charter; and to assign additional powers, duties, and functions to offices, departments, and agencies created by this charter.

#### City clerk

Section 2-5. The city clerk, hereinafter provided for, shall also serve as clerical officer of the council. He shall keep the journal of the proceedings of the council, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it. He shall be custodian of such documents, records, and archives as may be provided by law or ordinance; shall be custodian of the seal of the city, and shall attest, and affix the seal to, documents when required in accordance with this charter, law, or ordinance; shall keep a correct and up-to-date record of the city boundaries and changes therein; and shall have such powers and duties relating to elec-

tions as this charter or the council may prescribe.

Council: Meetings

Section 2-6. The council shall hold at least two regular meetings every month at such times as it may prescribe by ordinance, resolution, or rules of the council. The mayor or any four councilmen may call special meetings. All meetings of the council shall be open to the public, and the journal of its proceedings shall be open to public inspection; but committees of the council, including the committee of the whole, may hold private meetings; provided that all actions of the council shall be taken at public meetings.

Council: Absences to terminate membership

Section 2-7. If the mayor or any other councilman shall be absent from more than one-half of all the meetings of the council, regular and special, held within any period of three consecutive calendar months, he shall thereupon cease to hold office.

Councilmen: Removal

Section 2-8. The mayor or any other councilman may be removed from office for any cause specified by applicable state law for the removal of officers, and in the manner prescribed thereby, or by recall as provided in this charter.

Council: Vacancies

Section 2-9. The council, by a majority vote of its remaining members, shall fill vacancies in its own membership, including a vacancy in the office of mayor, for the unexpired terms or until the vacancies are filled at elections as provided herein. In case no councilmen remain, the city clerk or, in his absence, the city attorney shall forthwith call a special election to fill the vacancies in the council for the unexpired terms.

If a vacancy occurs before the beginning of a regular filing period for candidates for councilmen, and the unexpired term extends beyond the time when the terms of councilmen elected that year begin, then a mayor or councilman for that place shall be elected at the regular election of that year to serve the rest of the unexpired term beginning at the time the terms of councilmen elected that year begin.

Council: Quorum, rules, yeas and nays

Section 2-10. A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time. The council may determine its own rules. On the demand of any member, the vote on any question shall be by roll call, and the names shall be individually recorded in the journal.

Ordinances: Enacting clause

Section 2-11. The enacting clause of all ordinances passed by the council shall be, "Be it ordained by the Council of the City of Kenai, Alaska", and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the City of Kenai, Alaska".

Ordinances: Passage, when in effect

Section 2-12. A proposed ordinance shall be read, and a vote of a majority of all the councilmen shall be required for its final passage. The vote on final passage of every ordinance shall be by roll call, and the names shall be individually recorded in the journal. The mayor shall have

no power of veto. No ordinance except an emergency ordinance or an ordinance making, repealing, transferring, or otherwise changing appropriations, may be finally passed on the same day that it is introduced. Within ten days after its passage, every ordinance shall be published in full or by number and title.

Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations, shall go into effect immediately upon passage unless they specify a later time. All other ordinances shall go into effect one month after passage and publication unless they specify a later time.

Ordinances: Emergency

Section 2-13. An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of the public peace, health, or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least five members of the council shall be required for the final passage of an emergency ordinance.

Ordinances: Adoption by reference

Section 2-14. The council by ordinance may adopt by reference codes, ordinances, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, ordinance, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be kept in the office of the city clerk and be open to public inspection.

Ordinances: Codification

Section 2-15. The permanent, general ordinances of the city shall be codified and published in book or pamphlet form at least every ten years unless the council, by use of a loose-leaf system, provides for keeping the code up-to-date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city, and this charter. The council by nonemergency ordinance shall adopt the code. A copy of the code shall be kept in the office of the city clerk after adoption and shall be open to public inspection, but the code need not be enrolled in the book of ordinances.

ARTICLE 3  
CITY ADMINISTRATOR AND ADMINISTRATIVE DEPARTMENTS

City manager: Appointment, term, qualifications, removal

Section 3-1. When the city is operating under the council-manager form of government, there shall be a city manager. The council shall appoint him for an indefinite term by a vote of a majority of all its members. It shall choose him on the basis of his executive and administrative qualifications. At the time of his appointment, he need not be a resident of the city or state; but, during his tenure of office, he shall reside within the city.

The council may suspend or remove the city manager at any time by an affirmative vote of five members. At least one month before removing the city manager, the council shall give him notice of the proposed removal and a written statement of the cause of removal, and before removal, shall give him opportunity for a public hearing thereon. The council may remove an acting city manager without notice.

City administrator: Powers and duties

Section 3-2. The city administrator (mayor or city manager, as the case may be) shall be chief administrative officer and head of the administrative branch of the city government. He shall execute the laws and ordinances and administer the government of the city, and in case of a city manager, shall be responsible therefor to the council. He shall:

(1) Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote, or remove, all directors, or heads, of administrative departments and all other administrative officers and employees of the city except as this charter provides otherwise, subject to such merit-system regulations as the council may adopt;

(2) Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees whom he appoints;

(3) Prepare a budget (including estimated revenues and proposed expenditures) annually and submit it to the council, be responsible for budget administration after appropriations are made, and recommend to the council any changes in the estimates and appropriations which he deems desirable;

(4) Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year;

(5) Keep the council advised of the financial condition and future needs of the city, and make such recommendations on matters of policy and other matters to the council as may seem to him desirable;

(6) Have such other powers, duties, and functions as this charter may prescribe, and such powers, duties, and functions consistent with this charter as the council may prescribe.

Administrative departments, offices, and agencies

Section 3-3. There shall be such administrative departments, offices, and agencies as this charter establishes and as the council may establish.

Department of finance: City clerk, duties

Section 3-4. There shall be a city clerk, who shall be an officer of the city appointed by the city administrator, with approval by a vote of a majority of all the members of the council, for an indefinite term, and who shall be head of the department of finance. Except as the council by ordinance provides otherwise, the city clerk shall collect or receive revenue and other money for the city, shall deposit the same with the city treasurer or for the city treasurer in an account or accounts maintained by the city treasurer in a depository or depositories, and shall maintain a general accounting system for the city government. He shall have such other powers, duties, and functions as may be prescribed by the charter, by applicable law, or by ordinance.

City treasurer: Office created, duties

Section 3-5. Within the department of finance, there shall be a city treasurer; provided that the city clerk shall be ex officio city treasurer except when the council by ordinance provides that the city administrator

shall appoint a city treasurer for an indefinite term. Subject to such regulations as the council may prescribe, the city treasurer shall deposit funds received for the city in such depositories as the council may designate. He shall have such other powers, duties, and functions as may be prescribed by the charter, by applicable law, or by ordinance.

Terms of regular administrative personnel

Section 3-6. All regular (that is, nontemporary) administrative officers and employees except members and officers of boards and other plural authorities, shall serve indefinite terms, subject to removal for the good of the service as provided in this charter.

ARTICLE 4. OFFICERS AND EMPLOYEES

Appointments, removals, etc.

Section 4-1. Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and layoffs, suspensions, demotions, and removals shall be made solely for the good of the service. The council, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

Holding more than one office

Section 4-2. Except as may be otherwise provided by this charter or by ordinance, the same person may hold more than one office in the city government. The city administrator may hold more than one such office, through appointment by himself, by the council, or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but he may not receive compensation for service in other city offices and positions. Also the council by ordinance may provide that the city administrator shall hold ex officio any designated administrative office or offices subordinate to the city administrator as well as other designated compatible city offices, notwithstanding any other provision of this charter.

Official bonds

Section 4-3. The city administrator, the city clerk, the city treasurer, and such other officers and employees as the council may designate, before entering upon their duties, shall be bonded, by individual and/or group bonds, for the faithful performance of their respective duties, payable to the city, in such form and in such amounts as the council may prescribe, with a surety company authorized to operate within the state. The city shall pay the premiums on such bonds.

Oath or affirmation of office

Section 4-4. Every officer of the city, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the Alaska Constitution, Article XII, Section 5. The oath or affirmation shall be filed and kept in the city clerk's office.

Who may administer oaths and affirmations

Section 4-5. All officers authorized by federal or state law, the mayor, the city manager (if any), the city clerk, the municipal judge, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.



Removal, etc., of officers and employees

Section 4-6. The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect; and the city administrator, the council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom he, the council, or the other appointing or electing authority respectively may appoint or elect a successor.

Acting officers and employees

Section 4-7. The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is appointed or elected and qualifies, unless the council provides by ordinance that a particular superior or subordinate of such officer or employee shall act. The council by ordinance may provide for a deputy to act in such cases.

Officers to continue until successors are elected or appointed and qualify

Section 4-8. Every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his successor is elected or appointed and qualifies unless his services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

Publicity of records

Section 4-9. All records and accounts of every office, department, or agency of the city government, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish, shall be open to public inspection; provided that sales tax records shall be confidential in accordance with the ordinances of the city.

ARTICLE 5  
TAXATION AND FISCAL AFFAIRS

Fiscal year

Section 5-1. The fiscal year of the city government shall begin on the first day of July and shall end on the last day of June unless otherwise provided by ordinance.

Taxation: Powers

Section 5-2. The city shall have all powers of taxation which home-rule cities may have under the state constitution and law.

Same: Assessment, levy, and collection of property taxes -- Liens

Section 5-3. The council by ordinance shall provide for the annual assessment, levy, and collection of taxes on property.

The city shall have a first lien on all real property against which taxes are assessed, for the taxes and any collection charges, penalties, and interest which may accumulate thereto; and the lien shall continue until the taxes and any such charges, penalties, and interest are paid; provided, however, that no single home and lot lived in by the owner shall be taken by the city for unpaid taxes during the life of the owner-occupant if he is over the age of sixty-five years or is permanently and totally disabled, and is unable to pay the taxes.

Same: Private leaseholds, etc., in property owned or held by the United States, the state, or its political subdivisions

Section 5-4. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the state, or its political subdivisions, shall be taxable to the extent of the interests.

Deposit, disbursement, and investment of funds

Section 5-5. The council may regulate the deposit, disbursement, and investment of city funds, and may determine what funds of the city may be invested. City funds may be invested only in the following: General-obligation bonds and other general-obligation evidences of indebtedness of the United States, of the State of Alaska, of other states of the United States, of this city, of other cities of this state, and of boroughs of this state; and such other securities as may be authorized by law.

Purchases and sales

Section 5-6. The city administrator, subject to any regulations which the council may prescribe, shall contract for and purchase, or issue purchase authorizations for, all supplies, materials, and equipment for the offices, departments, and agencies of the city government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the council. The city administrator also may transfer to or between offices, departments, and agencies, or sell, surplus, obsolete, or unused supplies, materials, and equipment, subject to such regulations as the council may prescribe.

Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus, obsolete, or unused supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions as the council may prescribe, shall be given; but the council shall not except a particular contract, purchase, or sale from the requirement of competitive bidding.

The council by ordinance may transfer some or all of the power granted to the city administrator by this section to an administrative officer appointed by the city administrator.

Public improvements

Section 5-7. Public improvements, including local improvements, may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the city administrator to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe.

Personal interest

Section 5-8. Neither the city administrator nor any councilman shall sell or barter anything to the city, or make any contract with the city, or purchase anything from the city other than those things which the city offers generally to the public (as for example, utility services), and then only on the same terms as are offered to the public, unless an invitation to submit sealed bids is published, and the city accepts the sealed bid which is most advantageous to the city; provided that the council by ordinance may authorize such sales, contracts, or purchases involving a consideration of not more than \$500 in value, to be made without such bids at prices or rates prevailing in the community and without favoritism or discrimination.

Any such officer violating this section, upon conviction thereof, shall

thereby forfeit his office. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city, shall render the contract voidable by the city administrator or the council.

This section shall not apply in cases in which the city acquires property from any such officer by condemnation.

#### Claims for injuries

Section 5-9. The city shall not be liable in damages for injury to person or property by reason of negligence of the city unless, within four months after such injury occurs, the person damaged or his representative causes a written notice to be served upon an officer of the city upon whom process may be served. Such notice shall state that such person intends to hold the city liable for such damages and shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant.

No person shall bring action against the city for damages to person or property arising out of any of the reasons or circumstances aforesaid unless such action is brought within the period prescribed by law or ordinance, nor unless he has first presented to the city clerk a claim in writing, setting forth specifically the nature and extent of the injury and the amount of damages claimed. The city clerk shall promptly present such claim to the council for action.

Failure to give notice of injury or to present a claim within the time and in the manner herein provided, shall bar any action upon such claim.

This section shall not be deemed to waive any defense of immunity which the city may have from claims for damages arising out of negligence, but shall apply in all cases where such defense is not available to the city.

#### Independent annual audit

Section 5-10. The council shall order an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices, and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and the audit shall be reported to the council and to the city administrator. In lieu of the above, the council may arrange with an appropriate state authority for such an audit.

### ARTICLE 6. BORROWING

#### General-obligation bonds -- Debt limit

Section 6-1. The city shall have power to borrow money and to issue its general-obligation bonds or other such evidences of indebtedness therefor, but only when authorized for capital improvements by the council and ratified at an election by a majority of those qualified to vote and voting on the question. General-obligation evidences of indebtedness may also be secured by revenues from revenue-producing utilities and enterprises when they are issued for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of said utilities and enterprises; by special assessments on benefitted real property; and/or by other designated funds or revenues specifically pledged for payment of principal and interest thereon. Capital improvements as used hereinabove may also include a part or all of the city's share of the cost of a public

improvement of which a part is to be paid by benefitted real property.

Such outstanding general-obligation indebtedness of the city incurred for all purposes shall not at any time exceed twenty percent of the assessed value of all real and personal property in the city. In determining such debt limit of the city, any amounts on hand or on deposit for debt retirement and any portion of reserve funds or accounts pledged to the payment of the principal amount of any outstanding general-obligation indebtedness, shall be deducted from the amount of the outstanding indebtedness. This debt limit shall not apply to refunding indebtedness of the city.

#### Borrowing to meet appropriations

Section 6-2. The city shall have power to borrow money to meet appropriations from a fund for any fiscal year in anticipation of the collection of estimated revenues for that year for that fund, when authorized by resolution or ordinance passed by the council, and without submitting the question to the voters. The total of such loans for any fund at any time shall not exceed seventy-five percent (75%) of the estimated revenues of the fund for the year still outstanding and uncollected. Money may thus be borrowed for one fund from another fund of the city as well as from other sources. All debt so contracted shall be paid before the end of the next fiscal year.

#### Revenue bonds, etc.

Section 6-3. The city shall have power to borrow money and to issue revenue bonds or other such evidences of indebtedness therefor, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of revenue-producing utilities and enterprises; but only when authorized by the council for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of said utilities and enterprises, and ratified at an election by a majority of those qualified to vote and voting on the question.

#### Interest rate on bonds, etc.

Section 6-4. No bond or other evidence of indebtedness of the city shall bear interest at a rate exceeding six percent per annum.

### ARTICLE 7. PUBLIC IMPROVEMENTS

#### How cost may be paid

Section 7-1. The cost of a public improvement may be paid wholly by the city, or partly by the city and partly by benefitted real property, or wholly by benefitted real property, as the council may determine. Said cost or part thereof to be borne by benefitted real property may be assessed by special assessment upon such benefitted property.

#### Special-assessment procedure

Section 7-2. The council may begin procedure for public improvements, when all or part of the cost thereof is to be paid by benefitted real property, either on its own initiative or upon receipt of a petition. The council shall prescribe by ordinance complete special-assessment procedure for such improvements. Without limiting the procedure which may thus be prescribed, it is hereby provided that such special-assessment procedure may (but is not hereby required to) provide for the issuance of special tax bills, warrants, or other evidences of special assessments; for the creation and operation of a revolving improvement fund; and/or for special-assessment

bonds secured by special assessments on benefitted real property. Also, in accordance with section 6-1 of this charter, general-obligation bonds may also be secured by special assessments on benefitted real property.

Special assessment to be in proportion to benefit -- Apportioning

Section 7-3. Any special assessment for a public improvement against real property benefitted thereby shall be in proportion to, and shall not exceed, the value of the benefit from the improvement. The council shall establish the method or methods of apportioning the cost of such improvements among the parcels of benefitted real property. No special assessment shall be levied by the city government against any property in excess of 25% of the fair cash market value of the property after giving effect to the benefit accruing thereto from the work or action for which assessed.

Protests

Section 7-4. If written protests as to the necessity for any public improvement are made by the owners of benefitted real property which would bear fifty percent or more of the estimated cost of the improvement, the improvement shall not proceed until the protests have been reduced so that the property of those still protesting shall not bear fifty percent of the said estimated cost, except upon approval of the council by a vote of at least six members.

Lien for special assessments

Section 7-5. The special assessments herein provided for, and any lawful charges, penalties, and interest which may accumulate thereto, shall be a first lien upon the real property assessed; and the lien shall be of the same character and effect, and shall be enforceable in the same manner, as a lien for general taxes.

All real property liable for special assessments

Section 7-6. All benefitted real property, including such as is exempt from taxation in accordance with law, shall be liable for the cost of public improvements assessed in accordance with this article unless specifically exempted from special assessments by law.

## ARTICLE 8. FRANCHISES

How granted

Section 8-1. A franchise permitting the use of the streets, alleys, bridges, easements, and other public places of the city in the furnishing of a public-utility service to the city and its inhabitants may be granted to a person, extended, renewed, or amended only by a nonemergency ordinance passed by the council, accepted as provided hereinbelow by the person to whom the franchise is granted, and approved at an election by a majority of the qualified voters voting on the question. After introduction, a copy of the ordinance in its final form must be in the office of the city clerk and subject to public inspection for at least one month before it is passed. Before passage, the council shall hold a public hearing thereon, a notice of which must have been published at least one week prior to the hearing. Within two weeks after passage, the grantee must file with the city clerk his unconditional acceptance of all terms of the franchise, extension, renewal, or amendment; and if a special election is to be held for the purpose of voting thereon, must pay to the department of finance of the

city an amount of money estimated by the city clerk to be adequate to pay all expenses of holding such election. If any balance remains after all such expenses have been paid, it shall be repaid to the grantee.

#### Terms and conditions

Section 8-2. No franchise shall be granted by the city for a term exceeding thirty years. With respect to any franchise granted after this charter goes into effect, whether or not provided in the franchise, the city may:

- (1) Terminate the franchise for the violation of any of its provisions, for the misuse or nonuse thereof, or for the violation of any regulation imposed by this charter or by ordinance;
- (2) Require proper and reasonable extension of plant and facilities and the maintenance thereof at the highest practicable standard of efficiency;
- (3) Control and regulate the use of the streets, alleys, bridges, easements, and other public places of the city, and the space above and beneath them;
- (4) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) Impose other reasonable regulations determined by the council to be conducive to the health, safety, welfare, or convenience of the public;
- (6) Require the public utility to permit joint use of its property and appurtenances located in the streets, alleys, bridges, easements, and other public places, by the city and by other public utilities, insofar as such joint use may be reasonably practicable, and upon payment of a reasonable rental or charge therefor; and in the absence of agreement, upon application by the public utility, provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;
- (7) Require the public utility to pay any part of the cost of improvement or maintenance of streets, alleys, bridges, easements, and other public places, that arises from its use thereof, and to protect and save the city harmless from all damages arising from such use;
- (8) Require the public utility to file with any designated city officer or officers reports concerning the utility and its financial operation and status, and such drawings and maps of the proposed location or location and nature of its pipes, conduits, wires, and other facilities as the council may request;
- (9) Regulate the rates and charges of the utility and the quality and standards of service, except as may be otherwise provided by law.

#### Sale or assignment

Section 8-3. The grantee of a franchise may not sell, assign, sublet, or allow another to use the same, unless the council gives its consent. Nothing in this section shall limit the right of the grantee to mortgage his property or franchise, nor shall it restrict the rights of the purchaser, upon foreclosure sale, to operate the same; but such mortgagee or purchaser shall be subject to the terms of the franchise, the provisions of this charter, and the ordinances of the city.

### ARTICLE 9. MUNICIPAL COURT

#### District magistrate court -- Municipal court

Section 9-1. The district magistrate court now authorized by law to hear and determine cases arising out of violations of city ordinances, or

any other court which may hereafter be so authorized by law, shall have jurisdiction to hear and determine cases arising out of violations of this charter and of the ordinances of the city; provided that the council by ordinance may create a municipal court and vest such jurisdiction in it when it deems it necessary or desirable to do so. The term "municipal court" and "municipal judge" may also be used respectively in referring to the said district magistrate court and district magistrate or to other courts and judges having said jurisdiction.

#### Minor-violations bureau

Section 9-2. The council by ordinance may create a minor-violations bureau with authority to dispose of cases arising out of designated minor violations of ordinances, such as minor traffic and parking violations, when the accused waives his right to be heard in court, pleads guilty, and pays fines and costs. The right of trial by jury shall not be abridged.

#### Penalties

Section 9-3. The council by ordinance shall have power to prescribe the punishment for violations of the charter and ordinances of the city, but such punishment shall not exceed a fine of three hundred dollars or imprisonment for more than thirty days, or such greater fine or longer imprisonment as may be authorized by law, or both such fine and imprisonment, and costs of prosecution. When a judgment directs that the defendant pay a fine and/or costs and he fails to do so, he shall be imprisoned until the fine and/or costs are satisfied at a rate per day to be determined by ordinance, which cannot exceed one day for every five dollars of the fine and costs, except in cases where the council by ordinance provides that unpaid fines and costs shall be satisfied in another manner.

Also the council by ordinance may provide for the suspension or revocation by the court of a permit or license issued by the city when the permittee or licensee is convicted of violating any provision of law or ordinance relating to the privilege, business, profession, trade, other vocation, or thing for which the permit or license was issued, as well as for suspension or revocation thereof otherwise.

#### Pardons, paroles, and commutations

Section 9-4. The mayor shall have power to pardon or to parole any person convicted of a violation of this charter or of any ordinance, and to commute sentences therefor. The council by ordinance shall have power to regulate and to limit the power granted by this section, and to provide that the mayor may grant a pardon, parole, or commutation in any or all cases only upon recommendation or with approval of the council or of a board created by ordinance.

### ARTICLE 10. ELECTIONS

#### Annual elections -- Time

Section 10-1. There shall be no primary election, but only a general election, herein also called regular election, for the election of the mayor and other councilmen. Such election shall be held on the second Tuesday in May every year; provided that the date of the election may be changed by ordinance passed by the council and approved by a majority of the qualified voters of the city voting on the question.

### Three-year terms -- Election at large -- Nonpartisan elections

Section 10-2. At the regular election in 1965, and at the regular election held every three years thereafter, a mayor shall be elected. At every regular election after this charter goes into effect, two councilmen shall be elected.

The mayor and the other councilmen shall be elected for overlapping terms of three years, and shall serve thereafter until their respective successors are elected and qualify; provided that, if only one councilman is elected and qualifies in any year (because of failure of other candidates to file or for other cause), then lots shall be cast in a meeting of the council and under its direction to determine which of the two councilmen whose terms are about to expire shall continue to serve; and provided further that, if (because of a vacancy) there is only one councilman whose term is about to expire, he shall continue to serve in such case.

The terms of office of the mayor and other councilmen shall begin at the time prescribed for the second regular council meeting after their election. If the mayor-elect or a councilman-elect fails to qualify within one month after the beginning of his term, his election shall be void, and the council shall fill the vacancy.

The mayor and other councilmen shall be elected at large, by the qualified voters of the entire city, by secret ballot. The election shall be non-partisan, and no party designation or emblem shall be placed on the ballot.

### Filing

Section 10-3. Any qualified person may have his name placed on the ballot for the election as a candidate for mayor or councilman by filing, not more than one month and at least two weeks prior to the election, with the city clerk, a sworn statement of his candidacy; provided that such sworn statement shall be accompanied by a nominating petition signed by twenty or more registered qualified voters who are property owners within the city. The council, by nonemergency ordinance, may require a reasonable filing fee or deposit, which shall be returned to the candidate if he (1) withdraws before the close of the filing period, or (2) receives a designated percent of the total number of valid votes cast for all candidates for the office.

### Voting -- Who elected

Section 10-4. Every qualified voter of the city shall be entitled to vote for one candidate for mayor and for two candidates for councilman. On the ballots between the title of the office and the names of the candidates, shall be placed the instruction "Vote for one" or "Vote for two", as the case may be. A voter may also write in the name of, and vote for, a person whose name does not appear on the ballot.

The candidate for mayor receiving the greatest number of votes shall be elected. The two candidates for councilman receiving the greatest number of votes shall be elected. In case of failure to elect because of a tie, the election shall be determined fairly by lot from among the candidates tying, in a meeting of the council and under its direction.

### Filling vacancies at elections, etc.

Section 10-5. When a mayor and/or councilman or councilmen are being elected to fill a vacancy or vacancies for the unexpired term or terms, the provisions of this charter shall apply as in the election of a mayor and/or councilmen for regular terms, insofar as applicable. The phrases "For one-year term", "For two-year term", and/or "For three-year term", as the case may be, shall be placed after the titles of the offices on the ballot as



necessary to identify the places on the council being filled at such election. The instruction "Vote for one" or "Vote for two" shall be placed above the names of the candidates, depending on whether one or two are to be elected in the category.

#### Qualified voter defined

Section 10-6. Every qualified voter as defined in Article V of the Alaska Constitution, who resides within this city, shall be entitled to vote in any election and on any city question thereat; provided that such qualified voter must also possess any other qualifications which may be prescribed by or in accordance with law for voting on bond issues before he shall be entitled to vote on bond issues.

#### Political activity of officers and employees

Section 10-7. No officer or employee of the city except the mayor and other councilmen and personnel who do not receive compensation for their services, may work for or against or attempt to influence the election or defeat of any candidate for mayor or councilman, or the recall of the mayor or any councilman; provided that this shall not prohibit the ordinary exercise of one's right to express his opinions and to vote.

Any person who violates this section, shall be punished, upon conviction thereof, by a fine not exceeding fifty dollars and costs. Such violation shall constitute cause for removal from office or employment; and if the regular removal authority has not already removed a person who violates this section, he shall be automatically removed by the said conviction of violating this section, effective at the expiration of the period during which he may appeal or, in case of appeal, when the case is finally determined.

#### Calling special elections -- Questions submitted at elections -- Publication

Section 10-8. The council, by resolution or ordinance, may call, or may authorize the mayor by proclamation to call, special elections, and may submit, or may authorize the mayor to submit, questions to the qualified voters of the city at elections, regular and special. Questions may also be submitted at elections as provided in other sections of this charter. Nothing in this charter shall prohibit holding a city election on the same day and by the same election personnel as a state or other public election, or submitting a city question at such an election.

The city clerk shall publish in full every charter amendment and every ordinance which is to be submitted to the voters at an election for approval or enactment, except a referred ordinance which was published in full after passage, not more than four weeks and at least two weeks before the election at which it is to be submitted.

#### Canvassing returns -- Certificates of election

Section 10-9. The council shall canvass the returns of all city elections, regular and special, and shall ascertain and declare the results thereof; provided that the council may delegate this function to a board created by ordinance. The city clerk shall promptly prepare, sign, and issue certificates of election to all persons elected to office.

#### Council to be judge of election and qualifications of its members

Section 10-10. The council shall be the judge of the election and qualifications of its own members, including the mayor, subject to judicial review as may be provided by law or ordinance.

Law to govern elections when

Section 10-11. Any provisions of law applicable to city elections shall govern elections of this city insofar as they are applicable and are not superseded by this charter or by ordinance.

ARTICLE 11  
INITIATIVE, REFERENDUM, AND RECALL

Initiative and referendum: Authorized -- Exceptions

Section 11-1. The qualified voters of the city, by the initiative, may propose and enact any ordinance which the council has power to enact under this charter except as otherwise provided in this section. Ordinances granting, extending, renewing, or amending franchises for public utilities and ordinances regulating compensation or days and hours of work of appointive personnel shall not be subject to the initiative.

The qualified voters of the city, by the referendum, may approve or reject any ordinance passed by the council except as otherwise provided in this section. Ordinances necessary for the immediate preservation of the public peace, health, or safety (herein called emergency ordinances), shall not be subject to the referendum.

Ordinances dedicating revenues, ordinances making, repealing, transferring, or otherwise changing appropriations, and special ordinances, shall not be subject to either the initiative or the referendum.

Petitions

Section 11-2. An initiative petition or a referendum petition shall contain a copy of the ordinance initiated or sought to be referred. A copy of the petition shall be filed with the city clerk before copies are circulated for signatures. The petition shall then be signed by a number of qualified voters of the city equal at least to twenty-five percent of the total votes cast at the immediately preceding regular city election.

An initiative petition with sufficient signatures must be filed within one month after the copy was originally filed as hereinabove provided. If the referendum petition with sufficient signatures is filed within one month after passage and publication of the ordinance sought to be referred, the ordinance sought to be referred shall not go into effect until the petition is finally found to be illegal and/or insufficient, or, in case the petition is found to be legal and sufficient, until the voters approve the ordinance as provided below in this article. Each copy of an initiative or a referendum petition filed must bear an affidavit signed by the qualified voter of the city who circulated the copy stating that each of the signers who signed the copy signed it in his presence, that he believes that each has stated his name and address correctly, and that he believes each signer is a qualified voter of the city.

Within one month after the petition is filed, the city clerk, with such assistance from the city attorney as he deems necessary, shall ascertain whether the petition is legal and has sufficient signatures, and shall certify his finding. His finding shall be subject to judicial review.

Ballot title and propositions -- Submission

Section 11-3. If an initiative or a referendum petition is found to be legal and to have sufficient signatures, the city clerk, with such assistance from the city attorney as he deems necessary, shall prepare

the ballot title and propositions for the ordinance. The city clerk shall place the question on the ballot for the next regular or special city election held not less than two months after final determination of the legality and sufficiency of the petition. The council by resolution or ordinance may call, or authorize the mayor by proclamation to call, a special election for the purpose. If, in the case of an initiative petition, the council, at least one month before the election, enacts an ordinance substantially the same as the one in the petition, the petition shall be void.

#### Vote required -- Effect

Section 11-4. If a majority of the votes cast on the question favor the enactment of an initiated ordinance, it shall be enacted. If at least as many votes are cast for the approval of a referred ordinance as are cast against it, it shall be approved, and go into effect; otherwise it shall be rejected. If two or more initiated or referred ordinances which have conflicting provisions are enacted or approved at the same election, the one receiving the largest affirmative vote shall prevail.

The council may not, within two years after the election, repeal or amend an initiated ordinance which has been enacted, or re-enact an ordinance rejected by referendum, except by a vote of at least six councilmen.

#### Charter provisions self-executing -- Further regulation by ordinance

Section 11-5. The provisions of this charter relating to the initiative and referendum shall be self-executing, but the council by ordinance may further regulate the procedures therefor.

#### Recall

Section 11-6. All incumbents of elective offices of the city, including persons chosen to fill vacancies in such offices, shall be subject to recall from office by the qualified voters of the city. Procedures and grounds for recall shall be such as may be prescribed by law. The council by ordinance may further regulate the recall insofar as such regulation is not in conflict with the state constitution or law.

### ARTICLE 12 AMENDMENT AND SEPARABILITY OF CHARTER

#### Amendment of charter: Proposal, approval

Section 12-1. Proposals to amend this charter may be made in either of the following ways: (1) The qualified voters of the city, by initiative petition, may initiate amendments to this charter in the same manner, as nearly as may be, as they may initiate ordinances; and (2) the council by resolution or ordinance may propose, and submit or provide for the submission of, charter amendments to the qualified voters of the city. A charter amendment initiated by petition of the qualified voters shall be submitted to the qualified voters at a regular or special election in the same manner as an initiated ordinance and subject to the same regulations, as nearly as may be. A charter amendment proposed by the council may be submitted to the qualified voters of the city at any regular or special election held not less than two months after passage of the said resolution or ordinance. If more than one amendment are proposed, all of them except those which are so interrelated that they should be approved or rejected together, shall be submitted in such manner that the voters may vote on them separately.

An amendment duly submitted to the qualified voters, shall become effective upon approval by a majority of the qualified voters who vote on the question of approval. A copy or copies of every charter amendment approved by the qualified voters, shall be filed as may be required by law.

A new charter may be proposed and approved in lieu of this charter in the same manner as an amendment to this charter may be proposed and approved.

It is hereby recognized that the manner of adoption, amendment, and repeal of home-rule charters may be regulated by law; and any binding provision of the state constitution or law regulating such manner shall prevail over any conflicting provision of this charter or of any ordinance.

#### Separability clause

Section 12-2. If a court of competent jurisdiction should hold any section or part of this charter invalid, such holding shall not affect the remainder of this charter nor the context in which such section or part so held invalid may appear, except to the extent that another part of the charter may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as may be necessary or desirable because of such holding or change.

### ARTICLE 13. SUCCESSION IN GOVERNMENT

#### Charter -- When in effect

Section 13-1. This charter shall go into effect at noon on the first Monday after its approval at an election by a majority of the qualified voters of the city voting on the question; and the government provided by it shall be deemed a continuation of the government existing previously under law.

#### Officers and employees to continue

Section 13-2. The incumbents of the offices of mayor and councilmen and all other offices and positions of employment (including members of boards and commissions), under the statutory government of this city at the time this charter goes into effect, shall continue in their respective offices and positions of employment under this charter until their respective terms expire or until their services are terminated in accordance with the provisions of this charter and ordinances relating to the creation, change, and abolition of offices and removal of officers and employees, as the case may be. The compensation of all officers and employees shall continue at the same rates after this charter goes into effect until changed in accordance with this charter.

#### Ordinances continued

Section 13-3. All ordinances, insofar as they are not inconsistent with this charter, shall continue in effect until they are repealed or until they expire by their own limitations.

#### Pending actions and proceedings

Section 13-4. The adoption of this charter shall not abate or otherwise

affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency, or officer thereof.

CERTIFICATE

We, the undersigned members of the Charter Commission of the City of Kenai, Alaska, duly elected in accordance with Chapter 196 of the 1959 Session Laws of the State of Alaska, acting as said Charter Commission, and having elected Chester Cone Chairman, Richard Morgan Vice Chairman, and Lillian Hakkinen Secretary, of said Charter Commission, state that the said Charter Commission has prepared the above Charter of the City of Kenai, Alaska, and do hereby approve and propose the said Charter, and direct that it be filed in the office of the City Clerk of the said City; and further direct that this Charter of the City of Kenai, Alaska, shall be submitted to the qualified voters of the City of Kenai, Alaska, at the regular (regular or special) election which shall be held on Tuesday, 14 May, 1963, for approval or rejection, in accordance with law.

In witness whereof, we hereunto subscribe our names, this the ninth day of April, 1963, in the City of Kenai, Alaska.

Chester H. Cone Richard D. Morgan  
William R. Peterson Lillian Hakkinen  
Henry H. Knappstad Frank R. Howley  
Mary E. Willets  
Stanley F. Thompson

ATTEST:

Lillian Hakkinen  
Secretary, Charter Commission

Filed in the office of the City Clerk of the City of Kenai, Alaska,  
10 April, 1963.

Francis Forkelsen  
City Clerk

